

3.13 REQUIRED DISCLOSURES

The Council on Environmental Quality’s “Regulations for Implementing the Procedural Provisions of The National Environmental Policy Act” (40 CFR Parts 1500-1508) provide direction on addressing the environmental consequences of an action within an EIS (40 CFR 1502.16). This direction is met through the discussions presented in Chapter 3 of this FEIS. In addition, the regulations specify certain considerations, consistency with which may not be apparent given that the discussions within the FEIS are focused on individual resource issues. This section is designed to specifically address these other considerations or reference where within this document a discussion can be found. In addition, this section identifies the “environmentally preferred” alternative.

3.13.1 AMERICAN INDIAN RIGHTS AND TRIBAL CONSULTATION

The Federal government has a unique government-to-government relationship with American Indian Tribes. This relationship requires federal agencies to consult with tribes regarding agency actions, in order to protect tribal rights reserved by treaty with the United States. The Bitterroot National Forest Travel Management Planning Project decision area encompasses lands addressed by the Hellgate Treaty of 1855, the Nez Perce Treaties of 1855 and 1863, and the Fort Bridger Treaty of 1868. These treaties recognize the rights of The Confederated Salish and Kootenai Tribes of the Flathead Reservation, The Nez Perce Tribe, and The Shoshone-Bannock Tribes of the Fort Hall Reservation to fish, hunt, gather plants, and pursue other traditional practices on public lands described within the treaties, including the Bitterroot National Forest.

These tribal rights are protected under the National Historic Preservation Act (NHPA), the Native American Graves Protection and Repatriation Act (NAGPRA), and the American Indian Religious Freedom Act (AIRFA). Federal guidelines direct federal agencies to consult with tribal governments regarding federal actions that may affect religious practices and other traditional cultural uses, as well as cultural resource sites and remains associated with American Indian heritage. Any tribe whose traditional territory falls within a project area is afforded the opportunity to voice concerns for issues governed by NHPA, NAGPRA, or AIRFA. The American Indian Religious Freedom Act of 1978 protects the “inherent right of the freedom to believe, express, and exercise their traditional religions.” These concerns include, but are not limited to, access to sites, use, and possession of sacred objects, and the freedom to practice sacred worship ceremonies. The Archaeological Resource Protection Act of 1979, as amended in 1988 (ARPA) also describes the role of Tribes in the federal decision-making process in the area of cultural resource management.

Over the past three decades, Forest leadership and program specialists have worked closely with tribal governments and cultural representatives to identify areas of particular tribal cultural concern within the Bitterroot National Forest. The Confederated Salish and Kootenai Tribes of the Flathead Reservation regard the entire Bitterroot National Forest as an area of cultural concern, and are consulted on all projects occurring within the Forest. Nez Perce Tribal cultural concerns on the Forest lie within the Selway River and West Fork Bitterroot watersheds, and within the corridor of the Nez Perce (Nee-Me-Poo) National Historic Trail (NPNHT). The Shoshone-Bannock Tribes of Fort Hall are primarily interested in Forest actions involving lands within the Salmon River watershed, which is outside the area of potential effect for this undertaking. During ongoing consultation with The Confederated Salish and Kootenai Tribes, specific sites of cultural concern within the Travel Management Planning Project’s area of potential effect have been identified, and The Confederated Salish and Kootenai Tribes have stated their support for the preferred alternative (Alternative 1). Through ongoing consultation, The Nez Perce Tribe has identified specific sites of cultural concern within the Travel Management Planning Project’s area of potential effect, however, none of the alternatives have potential to adversely affect these areas. Consultation with both The Confederated Salish and Kootenai Tribes and The Nez Perce Tribe is considered ongoing, pending selection of the alternative to be implemented, as described in the project’s Record of Decision.

3.13.2 ENVIRONMENTAL JUSTICE

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations,” directs federal agencies to integrate environmental justice considerations into federal programs and activities. “Environmental justice” means that, to the greatest extent practical and permitted by law, all populations are provided the opportunity to comment before decisions are rendered or are allowed to share in the benefits of, are not excluded from, and are not affected in a disproportionately high and adverse manner by government programs and activities affecting human health or the environment. The Forest Service has provided notice of comment opportunities and has considered all public input from persons or groups regardless of age, race, income status, or other social/economic characteristics. There would be no adverse effects to human health, or disproportionate impacts to minority or low income populations, with the implementation of any alternative.

For additional information, please refer to the Environmental Justice process paper {Project File folder ‘environmental_justice,’ Project File document ENVIR-JUSTICE.001.pdf}

3.13.3 POTENTIAL CONFLICTS WITH PLANS AND POLICIES OF OTHER JURISDICTIONS

Consistency with laws, regulations, policy, and federal, regional, state, and local land use plans is addressed in the section titled Consistency with Forest Plan, Laws, and Regulations for each resource discussed in Chapter 3 of this FEIS.

Cultural Resources - The laws and policies that govern cultural resource protection on federal lands are coordinated with the State Historic Preservation Offices (SHPO) of Montana and Idaho, which serve in an advisory capacity. The policies for the Forest Service and SHPO are consistent: the Forest Service would inform and consult with the Confederated Salish and Kootenai Tribes and the Nez Perce Tribe on proposed activities, site information, and potential impacts.

Wildlife - The Forest Service and the State of Montana’s Fish, Wildlife & Parks work together to manage wildlife, but the missions of the two agencies differ. The Forest Service manages the land, and affects wildlife by adjusting cover/forage relationships, or through travel management. The State of Montana manages the animals, and affects wildlife by adjusting hunting seasons and bag limits, and by enforcing other rules that affect the populations of fish and wildlife.

Water Quality - Section 313 of the Clean Water Act requires Federal agencies to comply with all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions with respect to the control and abatement of water pollution. Executive Order 12088 also requires the Forest Service to meet the requirements of the Act. All alternatives would comply with the Clean Water Act and Montana State Water Quality Standards. All alternatives would incorporate reasonable Soil and Water Conservation Practices, avoid channel degradation, and comply with the Forest Plan.

Air Quality – No prescribed burning activities are proposed in any of the alternatives. There would be no conflicts with plans and policies of other jurisdictions.

Ravalli County Natural Resource Use Policy

The Ravalli County Natural Resource Use Policy was signed and adopted by the Ravalli County Board of Commissioners on November 21, 2012. The policy was developed to help guide the county with their involvement with public land managers. The Ravalli County Natural Resource Use Policy contains Goals and Objectives for how the county would like to see natural resources within the county managed.

There are Goals and Objectives outlined in the policy in relation to Roads and Trails: Access and Transportation on pages 11-13 of the policy and in Appendix D to the policy. Specifically, there are 8 goals listed in the policy that relate to Access and Transportation. As stated in the Purpose and Need, the overall objective of this project is to provide a manageable and sustainable system of designated public motorized

routes and areas within the Bitterroot National Forest, consistent with and to achieve the purposes of the Forest Plan and the travel management regulations at 36 CFR 212 subpart B. The interdisciplinary team reviewed the relevant goals and objectives of the natural resource policy. There are some goals that align with purpose and need of the project however; there are some conflicts or inconsistencies between the Bitterroot Travel Plan and the county Natural Resource Policy.

The county Ravalli County Natural Resource Policy recommends to keep as many roads and trails available yearlong for economic, management and recreational uses as is practically possible. The County recognizes that some roads and trails may necessarily be closed or seasonally restricted for resource and wildlife management purposes. The IDT used the screening process to thoroughly evaluate what motorized access to maintain on Forest roads and trails.

3.13.4 ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

Chapter 3 of this FEIS addresses the potential environmental consequences of the alternatives analyzed in detail for the Travel Management Planning Project. Implementation of any alternative may result in some adverse effects; the severity of the effects can be minimized by adhering to the project design features of the alternatives. If management activities occur, however, some effects cannot be avoided. Even **Alternative 2** (no action) alternative has effects.

In general, any “adverse” environmental effects can be avoided through increased restrictions on human use. However, increased restrictions also limit recreation opportunities. The alternatives were developed, in part, to sharply define the issues and to provide a clear basis for comparison. In other words, adoption of a Bitterroot National Forest Travel Management Plan does not necessarily mean that adverse environmental effects cannot be avoided; however, some resource impacts may be determined to be acceptable in light of providing for a variety of recreation uses.

Cultural Resources - There is no assurance that every cultural resource site will be located in advance of all planned management activities. Some ground-disturbing activity may affect an undiscovered historic or prehistoric site. However, sites discovered in this manner would immediately be protected from further disturbance.

Wildlife – Motorized recreation in wildlife habitat disturbs many wildlife species to various degrees. Since some recreational access is desirable to allow the public to utilize and enjoy their National Forest, it is unavoidable that there will be some level of disturbance impacts to wildlife. Most wildlife species appear to be coping with existing levels of motorized use, with some exceptions noted in the analysis. However, reducing motorized disturbance and access would be beneficial to many wildlife species.

3.13.5 RELATIONSHIP BETWEEN SHORT-TERM USES AND LONG-TERM PRODUCTIVITY

Short-term uses are those that generally occur annually. Long-term productivity refers to the ability of the land to produce a continuous supply of a resource.

Chapter 3 of this FEIS discusses the potential impacts to resources including soils, water resources, fisheries and aquatic habitat, wildlife, and rare plants in each of the alternatives analyzed in detail. Motorized travel within the Bitterroot National Forest would not be considered a short-term consumptive use such as timber harvest or mining. In general, motorized travel would not affect the ability of the land to produce continuous supplies of other Forest resources.

Soil Resources - Proposed activities would result in a negligible decrease in long-term soil productivity. These areas are quantified and described in the Soils section of this chapter.

Water Quality - Stream channel conditions are expected to be protected, and water quality is not expected to be impacted by proposed activities. Short-term effects may occur as described in the Water Resources section of this chapter. No impacts to long-term productivity are anticipated.

Wildlife - Key habitat requirements for wildlife species include feeding habitat or foraging areas interspersed with nesting or denning habitat and thermal and hiding cover. The Travel Management Planning Project proposes no vegetation management treatment; consequently, there would be no impacts to feeding habitat, foraging areas, nesting or denning habitat, and thermal and hiding cover. There would be no effects to long-term productivity.

3.13.6 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

An “irreversible” commitment of resources refers to the loss of production or use of a resource due to a land use decision that, once executed, cannot be changed. An “irretrievable” commitment of resources applies to losses of production or use of renewable resources for a period of time.

The Bitterroot National Forest Travel Management Plan would not result in any irreversible or irretrievable commitment of resources. This action could result in certain effects which are described in Chapter 3 of the FEIS, including potential effects to wildlife and recreation opportunity. However, the Travel Management Plan would not be an irreversible or irretrievable commitment because human travel is not a consumptive use, and the Travel Management Plan could be changed in response to changing conditions. According to the 2005 Travel Management Rule, “...the Department [Forest Service] anticipates that local units will publish new motor vehicle maps annually and update signs as necessary or appropriate” {Project File folder ‘usfs_direction_and_policies_laws,’ Project File document DIRECTION-003.pdf}.

Soil Productivity - Region 1 soil and water conservation practices, and project design features specific to the Travel Management Plan, would be used to avoid soil productivity losses associated with motorized/mechanical transport use on roads and trails.

Cultural Resources - Any activity that would disturb a cultural resource is an irreversible commitment.

3.13.7 SPECIFICALLY REQUIRED DISCLOSURES

Energy Requirements and Conservation Potential of Alternatives - The energy required to implement the alternatives, in terms of petroleum products, would be insignificant when viewed in the light of the production costs and effects of the national and worldwide petroleum reserves.

Effects on Floodplains and Wetlands – The Travel Management Planning Project FEIS covers only whether motorized access is allowed on existing routes; it does not analyze the building of new structures within the project area, including its floodplains. Whether motorized access is allowed on a given road or trail does not affect its potential effects on floodplains. Therefore, the project is consistent with Executive Order 11988, Floodplain Management, which protects floodplains and downstream residents from the adverse effects of structures built in jurisdictional floodplains.

There are jurisdictional wetlands within the project area. The effects upon these wetlands are considered for each alternative in Chapter 3 of this document (Water Resources, Section 3.6). This project does not provide for the construction of new roads or trails in wetlands; additionally, any new road or trail construction effects would be analyzed in a subsequent document. All alternatives occur under an ongoing, active program of implementing best management practices to protect water resources, including wetlands. These factors insure that the project is consistent with Executive Order 11990, Protection of Wetlands.

Effects of Alternatives on Threatened and Endangered Species – There are no threatened and endangered plant species known to occur on the Bitterroot National Forest, so a biological assessment (BA) was not prepared. Formal consultation with the U.S. Fish and Wildlife Service (USFWS) regarding effects to the threatened bull trout was initiated in January 2010 when a BA was sent for their review {Project File folder ‘fisheries,’ Project File document FISH-004.pdf}. The USFWS replied with a Biological Opinion in February, 2012 {FISH-011.pdf}.

On July 2, 2013, the USFWS issued an updated list of threatened, endangered, and candidate species that may be present on the Bitterroot National Forest. The list added Canada Lynx as a transient species that

may be present in secondary/peripheral habitat on the Forest. During August 2013, the Forest initiated informal consultation with USFWS regarding project effects to the Canada lynx by sending a biological assessment (BA) for their review {Project File folder ‘wildlife,’ Project File document WILD-171.pdf}. The BA concluded that the effects determination for implementing **Alternative 1** is May Effect, Not Likely to Adversely Effect. The USFWS responded with a Letter of Concurrence dated September 6, 2013 in which they acknowledged the BA’s determination that **Alternative 1** is not like to adversely affect lynx, and confirmed that formal consultation on lynx is not required {Project File folder ‘wildlife,’ Project File document WILD-172.pdf}. No critical habitat for lynx has been designated within or in the proximity of the Bitterroot National Forest, so the Travel Management Planning Project would have no effect on lynx critical habitat.

On October 3, 2014, the USFWS listed the western population of the yellow-billed cuckoo as a threatened species. USFWS subsequently added yellow-billed cuckoo to the list of threatened, endangered, and candidate species that may be present on the Bitterroot National Forest in riparian habitats with cottonwoods and willows. The effects determination for this species in the Travel Management Planning Project FEIS is No Effect for **all alternatives**. A No Effect determination does not require consultation with USFWS.

Effects of Alternatives on Prime Rangeland, Forest Land, and Farm Land - The alternatives analyzed are in compliance with Federal regulations for “prime land.” The definition of prime forest land does not apply to lands within the National Forest System. The project area contains no prime farm lands or rangelands. In all alternatives, Federal lands would be managed with the appropriate consideration to the effects on adjacent lands.

Migratory Bird Treaty Act - Alternatives 1 and 4 would contribute to the conservation of migratory birds because they would reduce motorized disturbance effects to birds nesting near open routes.

Alternative 2 would not change the existing condition. **Alternative 3** would increase disturbance to birds nesting near open routes because more route miles would be open.

Climate Change - There is no data to suggest that the number of motorized vehicles using the Forest’s roads, trails, and areas would increase or decrease depending upon the alternatives. Consequently, it is difficult to determine whether there would be a corresponding increase or decrease in greenhouse gas emissions, including carbon dioxide, nitric oxide, and methane, attributable to the Travel Management Planning Project. Furthermore, “Because greenhouse gases mix readily into the global pool of greenhouse gases, it is not currently possible to ascertain the indirect effects of emissions from single or multiple sources (projects)” {Project file folder ‘usfs_direction_and_policies_laws,’ Project File document DIRECTION-009.pdf}.